

REMARKS

Claims 1 and 3-19 stand rejected. Reconsideration of claims 1 and 3-19 is respectfully requested based upon the amendments and remarks herein. Following entry of the above amendments, the claims pending in the subject application are 1 and 3-21. New claims 20 and 21 find support in the Specification at page 3, lines 26-30 and original claim 1. As 20 total claims were initially paid for, no excess claim fee is currently due.

35 USC §112 REJECTIONS

Claims 1 and 3-19 were rejected under 35 USC §112, second paragraph, for reasons of record on page 2 of the Office Action. Applicants respectfully traverse.

Although it is apparent that the subject phrase was fully explained in the Specification, Applicants have clarified the phrase “on the basis of 17% aluminium sulfate,” in claim 1 by replacing the phrase with the equivalent language “on the basis of $\text{Al}_2(\text{SO}_4)_3 \cdot 14.3\text{H}_2\text{O}$ ”, without changing the scope of claim 1 with respect to this feature. The Specification states at page 2, lines 26-31:

Component 1, aluminium sulphate, may be any aluminium sulphate used in the manufacture of accelerators. It may be fully hydrated, or totally or partially calcined. A typical grade, and the one on which the proportion is based, is “17%” aluminium sulphate ($\text{Al}_2(\text{SO}_4)_3 \cdot 14.3\text{H}_2\text{O}$) (called thus because that is the proportion of aluminium oxide therein). Should any other aluminium sulphate be required, [t]he appropriate quantity can be easily calculated on this basis.

Claim 1 has been further clarified by reciting that component (b), at least one of $\text{C}_1 - \text{C}_{10}$ aliphatic monocarboxylic acids, a metal salt of $\text{C}_1 - \text{C}_{10}$ aliphatic monocarboxylic acids, $\text{C}_1 - \text{C}_{10}$ aliphatic dicarboxylic acids or a metal salt of $\text{C}_1 - \text{C}_{10}$ aliphatic dicarboxylic acids, is present in the amount of “greater than 0% up to about 15%”. Component (a) remains an optional component as stated in the Office Action.

Applicants therefore respectfully request the withdrawal of the 35 USC §112, second paragraph rejection.

CLAIM OBJECTIONS

Claims 4, 14 and 19 are objected to for reasons of record set forth on pages 2 - 3 of the Office Action. Applicants have clarified claims 1, 4, 14 and 19 to recite the lower limit of the range set forth in claims 3, 13 and 18 respectively, from which claims 4, 14 and 19 depend. The objection to claims 4, 14 and 19 is therefore rendered moot. Applicants request that the objection to the claims be withdrawn.

35 USC §103 REJECTIONS

Claims 1, 5 - 12, and 15 - 17 were rejected under 35 USC §103(a) over Sommer et al. (USPN 6,537,367, hereinafter Sommer '367) for reasons of record at pages 3-4 of the Office Action. Applicants respectfully traverse.

Sommer '367 specifically states that it is a general object of [its] invention to provide an alkali-free or alkaline metal-free, respectively, and chloride-free setting and hardening accelerator by which a very fast setting can be achieved. See Col. 2, lines 64-67 and also Col. 3, lines 44-50, defining alkali-free or alkaline metal-free as meaning less than or equal to 1% Na₂O equivalents. Sommer '367 therefore teaches against an accelerator composition in which the alkali metal equivalent is greater than 1% Na₂O equivalent.

Applicants therefore respectfully submit that Sommer '367 does not support even a *prima facie* obviousness rejection, and request that the 35 USC §103(a) rejection over Sommer '367 be withdrawn.

Claims 1, 5 - 12, and 15 - 17 were rejected under 35 USC §103(a) over Sommer et al. (USPN 6,540,826, hereinafter Sommer '826) for reasons of record at pages 4-5 of the Office Action. Applicants respectfully traverse.

Sommer '826 specifically states that it is a general object of [its] invention to provide a sulfate-free and alkali-free or alkali metal-free, respectively, and chloride-free setting and hardening accelerator by which a very fast setting can be achieved. See Col. 3, lines 22-25, Col. 3, lines 39-53, and Col. 3, line 65 to Col. 4 line 8. Sommer '836 therefore teaches against an accelerator composition comprising an aqueous solution or dispersion of a blend of components including aluminium sulphate.

Applicants therefore respectfully submit that Sommer '826 does not support even a *prima facie* obviousness rejection, and request that the 35 USC §103(a) rejection over Sommer '826 be withdrawn.

DOUBLE PATENTING

Claims 1 and 3 - 19 were provisionally rejected on the basis of non-statutory obviousness type double patenting over co-pending application 10/544,979 for reasons of record at page 6 of the Office Action. Applicants respectfully traverse.

USSN 10/544,979 has a 371(c) Date of 01/25/2006 and an International Application Filing Date of 2/19/2004, while the present application has a 371(c) Date of 07/29/2005 and an International Application Filing Date of 05/22/2003.

The MPEP Section 1490 provides in pertinent part:

1490 Disclaimers [R-3]

V.< OTHER MATTERS DIRECTED TO TERMINAL DISCLAIMERS

D.< Two or More Copending Applications

If two (or more) pending applications are filed, in *each* of which a rejection of one claimed invention over the other on the ground of provisional obviousness-type double patenting (ODP) is proper, the ODP rejection will be made in each application. If the ODP rejection is the only rejection remaining in the earlier filed of the two pending applications, (but the later-

filed application is rejectable on other grounds), the examiner should then withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer....

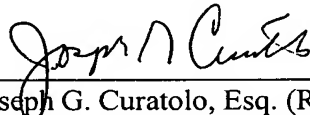
If the ODP rejections in both applications are the only rejections remaining in those applications, the examiner should then withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer.

Applicants respectfully request that the non-statutory obviousness type double patenting rejection of the present, earlier filed application over later filed USSN 10/544,979 be withdrawn.

In view of the amendments and remarks contained above, Applicants respectfully request reconsideration of the application, withdrawal of the 35 USC §103 and §112 rejections, the claim objections, and the non-statutory obviousness type double patenting rejection, and request that a Formal Notice of Allowance be issued for claims 1 and 3-21.

Should the Examiner have any questions about the above remarks, the undersigned attorney would welcome a telephone call.

Respectfully submitted,



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